

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CONTINENTAL 332 FUND, LLC,
CONTINENTAL 298 FUND LLC,
CONTINENTAL 306 FUND LLC,
CONTINENTAL 326 FUND LLC,
CONTINENTAL 347 FUND LLC,
CONTINENTAL 355 FUND LLC,
CONTINENTAL 342 FUND LLC and
CONTINENTAL 245 FUND LLC,

Plaintiffs,

v.

Case No.: 2:17-cv-41-FtM-38MRM

BROOK KOZLOWSKI, JOHN
SALAT, KEVIN BURKE and
GREGORY HILZ,

Defendants.

OPINION AND ORDER¹

Before the Court are the following motions and responses:

- Defendant Gregory Hilz's Motion for Oral Argument on Motions for Summary Judgment ([Doc. 473](#))
- Hilz's Motion for Leave to File Replies to Plaintiffs' Responses: (1) in Opposition to Hilz's Daubert Motion to Exclude Plaintiffs' Damages Experts (D.E. 512); and (2) in Opposition to Defendants' Daubert Motion Seeking to Exclude the Expert Testimony of Jason Linder (D.E. 516) ([Doc. 520](#)) and Plaintiffs' response ([Doc. 523](#))
- Hilz's Motion for Leave to File Reply to Plaintiffs' Response to Defendant Gregory Hilz's Motion for Summary Judgment (D.E. 513) ([Doc. 521](#)) and Plaintiffs' response ([Doc. 524](#))
- Defendant Brook Kozlowski's Joinder in Motion for Leave to File Replies to Plaintiffs' Responses in Opposition to Hilz's Daubert Motions ([Doc. 582](#))
- Kozlowski's Joinder in Motion for Leave to File Reply to Plaintiffs' Response to Defendant's Motion for Summary Judgment ([Doc. 583](#))

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- Kozlowski's Joinder in Motion for Oral Argument on Motions for Summary Judgment ([Doc. 584](#))

The Court denies Hilz's and Kozlowski's requests for oral argument on the summary judgment motions. Based on a careful review of the parties' filings, the Court is confident it can decide the issues based on the written submissions.

The Court also denies Hilz's request for leave to file reply briefs on the *Daubert* issues. In this district, a party moving for leave to file a reply must show good cause. Hilz's desire "to response to case law cited and arguments made in the Responses" is not enough.

The Court grants Hilz's request to file a reply on summary judgment in part. Hilz may file a reply to present discovery conducted after his motion was filed that contradicts statements made in Plaintiffs' response. Plaintiffs may file a surreply to address the new evidence.

Finally, the Court denies Kozlowski's "joinders" requesting leave to file replies to Plaintiffs' responses to Hilz's motions. It would be highly unusual for the Court to allow a party to file a reply supporting a motion filed by a different party. Kozlowski has not shown any reason for the Court to grant such an unconventional request.

Accordingly, it is now

ORDERED:

- (1) Defendant Gregory Hilz's Motion for Oral Argument on Motions for Summary Judgment ([Doc. 473](#)) and Brook Kozlowski's Joinder in Motion for Oral Argument on Motions for Summary Judgment ([Doc. 584](#)) are **DENIED**.
- (2) Hilz's Motion for Leave to File Replies to Plaintiffs' Responses: (1) in Opposition to Hilz's Daubert Motion to Exclude Plaintiffs' Damages Experts (D.E. 512); and

(2) in Opposition to Defendants' Daubert Motion Seeking to Exclude the Expert Testimony of Jason Linder (D.E. 516) ([Doc. 520](#)) is **DENIED**.

(3) Hilz's Motion for Leave to File Reply to Plaintiffs' Response to Defendant Gregory Hilz's Motion for Summary Judgment (D.E. 513) ([Doc. 521](#)) is **GRANTED in part**. Hilz may file a reply brief, not to exceed five (5) pages in length, on or before **February 5, 2020**. Plaintiffs may file a surreply brief, not to exceed five (5) pages in length, on or before **February 12, 2020**.

(4) Kozlowski's Joinder in Motion for Leave to File Replies to Plaintiffs' Responses in Opposition to Hilz's Daubert Motions ([Doc. 582](#)) and Joinder in Motion for Leave to File Reply to Plaintiffs' Response to Defendant's Motion for Summary Judgment ([Doc. 583](#)) are **DENIED**.

DONE and **ORDERED** in Fort Myers, Florida this 29th day of January, 2020.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record